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SCHWEGMAN, LUNDBERG & WOESSNER/EBAY P.O. BOX 2938 MINNEAPOLIS, MN 55402			EXAMINER CHRISTENSEN, SCOTT B	
			ART UNIT 2444	PAPER NUMBER
			NOTIFICATION DATE 10/08/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTO@SLWIP.COM

# Office Action Summary

**Application No.**

09/731,019

**Applicant(s)**

WILSON, DAVID J.

**Examiner**

Scott Christensen

**Art Unit**

2144

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 7, 9, 11, 12, 14 and 16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 7, 9, 11, 12, 14 and 16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. This Office Action is in regards to the most recent papers filed on 7/17/2008.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 7, 9, 11, 12, 14, and 16 are rejected under 35 U.S.C. 103(a) as obvious over NOWTHIS.COM (NOWTHIS.COM, blog entry, Nov 24, 1999), hereinafter referred to as Nowthis, in view of Nielsen (U.S. Pat. No. 6,789,075).
4. Nowthis disclosed, specifically, Amazon.com having implemented "x people found this review helpful. Y did not. Was it helpful to you? [YES] [NO]". See page 2. This specifically provided interactive element features as claimed, count tabulation, and since the sentence references "x people", it can be presumed that each person is entitled to only a single vote, since a second vote from the same person would not increase the number of "people" referenced. However, Nowthis may have been construed not to have expressly recited the provision for "incrementing a count of a stored number of indications for the review if the stored number of indications does not exceed one indication for the review from the user", as claimed. That is, without this presumption that "x people" references distinct, individual persons, the reference may

be construed to lack evidence to prove the count was incremented only when a user reviews something for the first time.

As discussed above in regard to Official Notice using MPEP § 2144.03, mechanisms for limiting users to a single input were notoriously well known in the art. Since the reference specifically disclosed "x people" (as opposed to "x votes"), the inclusion of functionality to preclude a "people" or "person" to a single submitted entry would have been obvious to one of ordinary skill in the art at the time of invention, since the reference specifically disclosed "Was it helpful to you?" (noting individual questioning), and "X people found this review helpful...Y did not" (noting individually submitted answers). Any minimally skilled information gatherer dealing with surveys, voting, polls, etc, would have been motivated to ensure that the same "person" casting multiple votes be thwarted in order to maintain integrity of the survey, election, poll, etc. Additionally, as further discussed above in regard to Official Notice, the use of error messages within the computing arts as well as the voting arts specifically for the purpose of indicating to a user/voter that he/she is attempting to vote twice was well known at the time of the invention.

Nowthis does not specifically disclose sorting the reviews in ascending or descending order as a function of the number of indications tallied for each review, and sequentially displaying the reviews in the sorted order as claimed. However, in a related art, Nielsen disclosed ranking web information elements according to an attribute in each element, displaying the elements in sorted order (see column 3, lines 10-32; column 7, lines 35-41).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the broadly described Nowthis functionality in use by Amazon.com with any known provision to limit the number of votes from a particular individual to one, and only one, simply in order to maintain integrity of the poll. It would have been further obvious to include a provision for sending an error to a user in the event of the user clicking the interactive element more than once, as such a provision would have been a highly desirable extension to the mechanism of limiting a user to only one vote ensuring the integrity of the voting system. Lastly, it would have been obvious to incorporate the teachings of Nielsen to provide a sorting provision as doing so would have provided the user the more important reviews first, thus providing the user more relevant information (see column 1, lines 13-65).

Claims 1, 7, 9, 11, 12, 14, and 16 are rejected.

5. Claims 1, 7, 9, 11, 12, 14, and 16 are rejected under 35 U.S.C. 103(a) as obvious over Epinions (WWW.EPINIONS.COM, Oct 12, 1999), hereinafter referred to as Epinions, in view of Salas et al. (U.S. Pat. No. 6,230,185), hereinafter referred to as Salas, and in further view of Nielsen (U.S. Pat. No. 6,789,075).

6. Epinions taught a method for identifying valuable product/service reviews review(s) as being helpful as evidenced by the "Rating Summary", reporting "Rated Very Useful by:", and "Rated Useful by:", displaying further degrees of usefulness. See pages 9 and 10. The total number of reviews which were available for review by a user was tabulated, and reported, additionally, for each individual degree of usefulness.

Since both percentage and actual review voting tabulation was evident, the presence of the number of indications was clearly evident. See prior Office action(s) for particular limitation mapping to the applied art. The provision for an "interactive element" was included in the broad teachings as set forth by Epinions, since the invention operated in a typical GUI, and Internet browser application. The application itself was an interactive element which accepted and effected input from user clients. Since the review, voting, and all other user input came from a user, the "interactive" functionality of the interface is inherent.

While Epinions disclosed the invention substantially as claimed, Epinions did not expressly disclose the prohibition of a user to indicate usefulness of a review only once. That is, Epinions did not expressly disclose the incrementing of a count only when "the number of indications does not exceed one indication from the user." However, since Epinions gathered voted opinions and was enabled for usage in a typical Internet browser application, and utilized well known and widely implemented HTML markup language for presentation dictation, an ordinary artisan would have been motivated to search the related arts to isolate teachings dealing directly with web page technology which disclosed specifics of voting mechanism(s) available at the time of invention.

In the same art of network based information gathering from individuals, Salas specifically disclosed a voting/polling mechanism utilized in typical HTML documents acting to optionally limit input from particular user(s) to one (1). See, inter alia, column 16, lines 33-54. Specific limiting of one member to one vote was expressly found at column 16, lines 51-54.

Since Epinions was implemented in an Internetworking environment, utilized typical Internet browser end user software for user input, and used HTML to present and gather information with network end users, the modification of the base system as disclosed with the HTML based polling mechanism provided by Salas would have been a matter of routine, and would have been obvious to one of ordinary skill in the art at the time of invention. Minimally, motivation for this modification would have been the implementation of voting features specifically disclosed by Epinions, fully enabled and described by Salas.

Furthermore, the modification of the Epinions/Salas teachings to incorporate the provision for sending an error to the user as claimed would have been obvious as such as provision was well known at the time of invention (see above regarding Official Notice). As the Epinions/Salas combination was concerned with a voting/polling system limiting input from a particular user to one vote/input, there would have been clear motivation for one of ordinary skill in the art to incorporate such a provision in order to further ensure the integrity of the voting system.

Lastly, while the combination of Epinions/Salas did not specifically disclose sorting the reviews in ascending/descending order as a function of the number of indicatinos tallied for each review, and sequentially displaying the revies in the sorted order, in a related art, Nielsen disclosed ranking web information elements according to an attribute in each element, displaying the elements in sorted order (see column 3, lines 10-32; column 7, lines 35-41). It would have been obvious to incorporate such a sorting provision in the Epinions/Salas system, the modification being motivated since

the sorting provided a user the more important information (i.e., reviews) first (see column 1, lines 13-65).

Thus, the reviewing of posted reviews, maintaining the reviews, counts of the reviews, and reviews of the reviews, along with the provision for limiting the number of valid voting opportunities for a particular user was fully disclosed by the combination of Epinions and Salas.

Claims 1, 7, 9, 11-12, 14, and 16 are rejected.

7. Claims 1, 7, 9, 11, 12, 14, and 16 are rejected under 35 U.S.C. 103(a) as obvious over Klingman (U.S. Pat. No. 5,950,172), in view of Nielson (U.S. Pat. No. 6,789,075).

Klingman disclosed maintaining records of user reviews retrieved over a network (see, inter alia, column 12, lines 9-18), display of these records in order to help users determine whether or not to purchase products/services (see, inter alia, column 4, lines 35-39; column 9, lines 8-198; column 12, lines 9-18; column 16, lines 28-32), incrementing a count of indications (see, inter alia, column 12, lines 9-30), limiting indication(s) to one indication (see, inter alia, column 8, lines 21-27; column 10, lines 58-61; column 23, lines 20-24), and displaying the information (see, inter alia, column 12, lines 9-18; column 22, lines 50-54); sending an error to the user if the interactive element is clicked more than once by the user for the review (see column 11, lines 1-28). Klingman was also disclosed as implemented in a typical networking environment using standard Internet technology. See, inter alia, column 15, lines 49-59.



While Klingman disclosed the invention substantially as claimed, Klingman did not expressly disclose the reviewing of reviews. Klingman related to the reviewing of products and services. See, *inter alia*, column 4, lines 20-28. Klingman specifically disclosed the selective indication of users which were considered "most qualified" to rate the products/services. See, *inter alia*, column 15, lines 35-47. Thus, an ordinary artisan would have been motivated to explore the related arts for methods for determining which reviews or reviewers were more or less valuable to potential buyers of merchandise.

Since Klingman specifically mentions reviews of particular users were more valuable than others (as above, *inter alia*, column 15, lines 35-47), and the "desirability of a more multi dimensional scoring mechanism" when reliant upon "respondents being mostly from a group of people [had/had no] interest..." (see column 12, lines 31-51), the ordinary artisan would have been motivated to better measure the weight of each review (also see, *inter alia*, column 12, lines 9-17), and the processing advancements in the art to better measure interest in products/services through a wide variety of processing algorithms including review of the review numbers themselves (see column 12, line 64 through column 13, line 31), it would have been obvious to modify the system of Klingman to review the reviews (using the same methodology) in order to better gauge the effectiveness and accuracy of the reviews. See, *inter alia*, column 13, lines 27-31.

Klingman further did not disclose sorting the reviews in ascending or descending order as a function of the number of indications tallied for each review, and sequentially displaying the reviews in the sorted order as claimed.

However, in a related art, Nielsen disclosed ranking web information elements according to an attribute in each element, displaying the elements in sorted order (see column 3, lines 10-32; column 7, lines 35-41).

It would have been obvious to one of ordinary skill in the art at the time of invention to incorporate the teachings of Nielsen to provide a sorting provision as doing so would have provided the user the more important reviews first, thus providing the user more relevant information (see column 1, lines 13-65).

Claims 1, 7, 9, 11-12, 14, and 16 are rejected.

### ***Response to Arguments***

8. Applicant's arguments filed 7/17/2008 have been fully considered but they are not persuasive.
9. On pages 6-7, Applicant argues the rejection of claims 1, 7, 9, 11-12, 14, and 16 under 35 USC 103 as being obvious over NowThis in view of Nielson. Applicant's argument appears to focus on the limitation, "receiving at the database an indication that the user has clicked the interactive element, and incrementing a count of a stored number of indications for the review (1) in response to the indication and (2) if the stored number of indications does not exceed one indication for the review from the user." More specifically, Applicant appears to argue "(2) if the stored number of indications

does not exceed one indication for the review from the user" is not taught by the combination of Nielson and NowThis.

First, it is noted that Amazon.com keeps track of the user, and has the user sign in to the system from the home page, as shown by the provided copy of Amazon's home page from 10/13/1999. Accordingly, Amazon is aware of the identity of the user, as the user signs in with a user name and password, and has an account maintained with Amazon. Therefore, the disclosure of NowThis, which shows a tally of the number of "people" who found the review to be helpful or not helpful, in combination with the fact that users sign into Amazon's home page, clearly shows that the "people" does not simply refer to individual counts, but refers to people, as shown by the individual user accounts that are logged into from Amazon's home page. As such, even if Amazon did not provide the functionality of having only one vote per user, it clearly was within the technical grasp of a person of ordinary skill in the art, as Amazon keeps track of individual users, and provides those users with the ability to vote. Further, a person of ordinary skill in the art would clearly have been led to implement the functionality of only having one vote per user by the use of the term "people" rather than a term, such as, "votes," where people shows that the intention is to have the votes limited to one per person.

10. On page 8, Applicant argues that sorting by a "priority attribute" in Nielsen is not the same as "sorting review in ascending or descending order as a function of the number of indications tallied for each review." However, it is noted that one cannot

show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). It is noted that Nielsen discloses sorting elements according to an element, which gives priority. Meanwhile, NowThis discloses a tally of users that found a review useful, which would lead a person of ordinary skill in the art to wish to prioritize the reviews according to the number of people who found it useful (as in NowThis) in a fashion similar to that disclosed by Nielsen.

11. On pages 8-9, Applicant argues the rejection of claims 1, 7, 9, 11-12, 14, and 16 under 35 USC 103 as being obvious over Epinions in view of Salas and Nielsen. Applicant's argument Appears to be substantially similar to the argument presented on page 8 of Applicant's remarks with regard to the rejection claims 1, 7, 9, 11-12, 14, and 16 under 35 USC 103 as being obvious over NowThis in view of Nielson. Thus, the remarks made above are applicable with regard to Applicant's arguments presented on pages 8-9 of Applicant's Remarks.

12. On page 9, Applicant argues the rejection of claims 1, 7, 9, 11-12, 14, and 16 under 35 USC 103 as being obvious over Klingman in view of Nielsen. More specifically, Applicant appears to argue "sending an error to the user if the interactive element is clicked more than once by the user for review." It is noted that there is no requirement as to what constitutes an "error." In the case of Klingman, the user is given

an opportunity to fill out the form again if an error is reached (See, for example, Klingman: Column 21, lines 61-65).

Applicant further argues that Klingman does not disclose determining "whether an interactive element is clicked more than once by the user for review," without any details of how Klingman's disclosure differs from this limitation. It is further noted that Klingman is concerned with preventing multiple votes from a single user (Klingman: Column 8, lines 25-28).

13. Thus, after careful consideration, the rejection of the instant claims under 35 USC 103 has been maintained.

***Conclusion***

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Christensen whose telephone number is (571)270-1144. The examiner can normally be reached on Monday through Thursday 6:30AM - 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on (571) 272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. C./  
Examiner, Art Unit 2144

/William C. Vaughn, Jr./  
Supervisory Patent Examiner, Art Unit 2144